

OCT 24 2001

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT. OF INSURANCE  
BY                     

In the Matter of:

**ALL AMERICA INSURANCE COMPANY,**

NAIC # 20222,

Respondent

) Docket No. 01A-242-INS

) CONSENT ORDER

Examiners for the Department of Insurance (the "Department") conducted a market conduct examination of All America Insurance Company ("AAIC"). The Report of Examination of the Market Conduct Affairs of AAIC alleges that AAIC has violated A.R.S. §§ 20-448, 20-461, 20-1632.01, 20-1652 and A.A.C. R20-6-801.

AAIC wishes to resolve this matter without formal proceedings, neither admits nor denies that the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

**FINDINGS OF FACT**

1. AAIC is authorized to transact property and casualty insurance, pursuant to a Certificate of Authority issued by the Director.

2. The Examiners were authorized by the Director to conduct a market conduct examination of AAIC. The on-site examination covered the time period from January 1, 1995, through June 30, 1998, and was concluded on October 23, 1998. Based on the findings the Examiners prepared the "Report of Examination of the Market Conduct Affairs of All America Insurance Company" dated October 23, 1998.

1           3.     The Examiners reviewed 50 personal automobile policies issued by AAIC  
2 during the time frame of the examination and found as follows:

3               a.     AAIC's advertising brochure (Form 2-7311 12/94)) indicated that if  
4 an insured was involved in an accident and was at-fault, AAIC would waive the  
5 surcharge on the first at-fault accident.

6               b.     AAIC increased the premiums charged to one insured who had  
7 one at-fault accident even though the advertising brochure indicated that AAIC would  
8 waive any surcharge on the first at-fault accident.

9               c.     AAIC moved two insureds who had one at-fault accident from the  
10 preferred rate level to a higher standard rate level following the accidents. This  
11 resulted in substantial premium increases to the insureds, even though the advertising  
12 brochure indicated that AAIC would waive any surcharge on the first at-fault accident.

13              d.     AAIC discontinued this program February 1, 1998, which was prior  
14 to the Department's Examination.

15           4.     The Examiners reviewed 85 of 3,220 personal automobile policies  
16 cancelled or nonrenewed by the Company during the time frame of the examination  
17 and found that AAIC sent 85 Notices of Cancellation after the seven day grace period  
18 that failed to indicate that the cancellation was effective on the date the Notices were  
19 mailed.

20           5.     The Examiners reviewed 40 homeowners policies cancelled by the  
21 Company during the time frame of the examination and found that AAIC nonrenewed  
22 three policies due to a condition of the premises and failed to provide the policyholders  
23 30 days to repair the condition in order to have the policies renewed. AAIC corrected  
24 this problem by changing its procedures on February 12, 1998, which was prior to the  
25 Department's Examination.



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2       6.     The Examiners reviewed 6 dwelling fire policies cancelled by the  
3 Company during the time frame of the examination and found that AAIC nonrenewed  
4 two policies due to a condition of the premises and failed to provide the policyholders  
5 30 days to repair the condition in order to have the policies renewed. AAIC corrected  
6 this problem by changing its procedures on February 12, 1998, which was prior to the  
7 Department's Examination.

8       7.     The Examiners reviewed 35 first party automobile total loss claims settled  
9 by the Company during the time frame of the examination and found as follows:

10           a.     AAIC settled 25 first party total loss claims without paying the  
11 appropriate sales taxes and/or air quality fees.

12           b.     AAIC reduced the actual cash value of the vehicle for claim  
13 #1174642 and did not adequately document the reasons for the deductions.

14           c.     AAIC applied a \$250.00 deductible to claim #1182497, a \$500.00  
15 deductible to claim #1188599, and a \$1,000.00 deductible to claim #3047423, even  
16 though the insureds' policies waived the deductible.

17       8.     The Examiners reviewed nine third party total loss claims settled during  
18 the time frame of the examination and found that AAIC failed to pay the appropriate  
19 taxes and air quality fees to four claimants.

20       9.     AAIC has already reimbursed personal automobile insureds and  
21 claimants a total of \$9,212.84 plus \$2,025.37 interest for unpaid taxes and fees and for  
22 inappropriately charged deductibles. One insured is still due \$26.25 plus interest to be  
23 =determined.

1 **CONCLUSIONS OF LAW**

2 1. AAIC violated A.R.S. § 20-448(C) by unfairly discriminating between  
3 insureds having substantially like insuring, risk and exposure factors, or expense  
4 elements, in the terms or conditions of any insurance contract, or in the rate or amount  
5 of premium charged therefor.

6 2. AAIC violated A.R.S. §20-1632.01(B) by failing to send Notices of  
7 Cancellation for nonpayment of premium to automobile policyholders after the seven  
8 day grace period that are effective on the date mailed.

9 3. AAIC violated A.R.S. §20-1652(B) by sending Notices of Cancellation or  
10 Nonrenewal to dwelling fire and homeowner policyholders due to a condition of  
11 premises without giving the insureds 30 days to correct the condition.

12 4. AAIC violated A.R.S. §20-461(A)(6) and A.A.C. R20-6-801(H)(1)(b) by  
13 failing to pay appropriate taxes and air quality fees on first party total loss settlements.

14 5. AAIC violated A.R.S. §§20-461(A)(8) and A.A.C. R20-6-801(H)(1)(c) by  
15 applying deductibles to first party total loss settlements, although the policy waived the  
16 deductible.

17 6. AAIC violated A.R.S. §20-461(A)(6) by failing to pay appropriate taxes  
18 and air quality fees on third party total loss settlements.

19 7. Grounds exist for the entry of the following Order in accordance with  
20 A.R.S. §§20-220 and 20-456.

21 **ORDER**

22 **IT IS ORDERED THAT:**

23 1. All America Insurance Company shall cease and desist from:  
24 a. Renewing personal automobile policies with increased premiums  
25 or less favorable rate classifications when the insured is involved in an at-fault accident



1 and has purchased a policy, which waives the accident surcharge.

2           b.     Failing to send notices of cancellation for nonpayment of premium  
3 to automobile policyholders after the seven day grace period that are effective on the  
4 date mailed.

5           c.     Sending notices of cancellation or nonrenewal on dwelling fire and  
6 homeowners policies due to a condition of premises without giving the insureds an  
7 opportunity to correct the condition within 30 days in order to have the policy renewed.

8           d.     Failing to pay appropriate taxes and air quality fees on first party  
9 total loss settlements.

10          e.     Applying deductibles to first party total loss settlements although  
11 the insureds purchased coverage, which waives the deductible.

12          h.     Settling claims for less than the amount indicated by advertising  
13 material or the policy.

14          i.     Failing to pay appropriate sales taxes and air quality fees on third  
15 party total loss settlements.

16          2.     Within 90 days of the filed date of this Order, AAIC shall submit to the  
17 Arizona Department of Insurance, for approval, evidence that corrections have been  
18 implemented and communicated to the appropriate personnel, regarding all of the  
19 items listed above in Paragraph 1 of the Order section of this Consent Order.  
20 Evidence of corrective action and communication thereof includes but is not limited to  
21 memos, bulletins, E-mails, correspondence, procedure manuals, print screens and  
22 training materials.

23          3.     Within 90 days of the filed date of this Order, AAIC shall pay \$26.25 plus  
24 interest in unpaid taxes and fees and undocumented deductions from ACV on claim  
25 #1174642. Interest shall be calculated at the rate of 10% per annum from the date

1 the claim was received by the Company until the date of reimbursement.

2 4. The payment made in accordance with item Number 3 above shall be  
3 accompanied by a letter to the insured in a form previously approved by the Director.  
4 Documentation that verifies the above claimant was paid, giving the name and  
5 address, the amount of the payment, the amount of interest, and the date of payment,  
6 shall be provided to the Department within 90 days of the filed date of this Order.

7 5. The Department shall be permitted, through authorized representatives,  
8 to verify that AAIC has complied with all provisions of this Order.

9 6. All America Insurance Company shall pay a civil penalty of \$7,000 to the  
10 Director for deposit in the State General Fund in accordance with A.R.S. § 20-220(B).  
11 This civil penalty shall be provided to the Market Conduct Examinations Section of the  
12 Department prior to the filing of this Order.

13 7. The Report of Examination of the Market Conduct Affairs of All America  
14 Insurance Company dated October 23, 1998, including the letter submitted in  
15 response to the Report of Examination, shall be filed with the Department after the  
16 Director has filed this Order.

17 DATED at Phoenix, Arizona this 23<sup>rd</sup> day of October, 2001.

18   
19 Charles R. Cohen  
20 Director of Insurance  
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**CONSENT TO ORDER**

1. All America Insurance Company has reviewed the attached Consent Order.

2. All America Insurance Company admits the jurisdiction of the Director of Insurance, State of Arizona, neither admits nor denies the foregoing Findings of Fact, and consents to the entry of the Conclusions of Law and Order.

3. All America Insurance Company is aware of its right to a hearing, at which it may be represented by counsel, present evidence and cross-examine witnesses. All America Insurance Company irrevocably waives its right to such notice and hearing and to any court appeals related to this Order.

4. All America Insurance Company states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

5. All America Insurance Company acknowledges that the acceptance of this Order by the Director of Insurance, State of Arizona, is solely to settle this matter against it and does not preclude any other agency or officer of this state or its subdivisions or any other person from any other civil or criminal proceedings, whether civil, criminal, or administrative as may be appropriate now or in the future.

6. F. W. Purmort, III, who holds the office of President of All America Insurance Company, is authorized to enter into this Order for it and on its behalf.

**ALL AMERICA INSURANCE COMPANY**

By: \_\_\_\_\_

10/15/01

Date

1 COPY of the foregoing mailed/delivered  
2 This 24th day of October 2001, to:

3 Sara Begley  
4 Deputy Director  
5 Mary Butterfield  
6 Assistant Director  
7 Consumer Affairs Division  
8 Paul Hogan  
9 Chief Market Conduct Examiner  
10 Market Conduct Examinations Section  
11 Deloris E. Williamson  
12 Assistant Director  
13 Rates & Regulations Division  
14 Steve Ferguson  
15 Assistant Director  
16 Financial Affairs Division  
17 Nancy Howse  
18 Chief Financial Examiner  
19 Financial Affairs Division  
20 Alexandra Shafer  
21 Assistant Director  
22 Life & Health Division  
23 Terry Cooper  
24 Manager  
25 Fraud Unit

17 DEPARTMENT OF INSURANCE  
18 2910 North 44th Street, Second Floor  
19 Phoenix, AZ 85018

20 Kent Bradford, General Counsel  
21 All America Insurance Company  
22 P. O. Box 351  
23 Van Wert, OH 45891-0351

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